IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION APPEAL NO.14 OF 2005

M/s.Fountain Head Developers. .. Appellants

Vs.

Mrs.Maria Arcangela Sequeira
(since deceased through LRs)
and Others .. Respondents.

None for the appellant.
Mr.Jaydeep S.Deo for respondent nos.1A, 1B, 2, 4 & 5.

WITH

ARBITRATION APPEAL NO.13 OF 2005

The State of Goa .. Appellant.
Vs.
M/s.Reshma Constructions .. Respondents.

Mr.R.D'souza with Mr.S.G.Kantak, Advocate General
(State of Goa)
None for the respondent.

WITH

APPEAL FROM ORDER NO.1068 OF 2005

Karad Nagar Parishad, Karad
Through Chief Officer,
Shri Ajit Maruti Jadhav,
Age 43 years, Occ.Service,
R/o.C/o.Nagar Parishad Office .. Appellant.
Budhwar Peth, Karad

Vs.

Maharashtra Jeevan Pradhikaran
Behind Pankaj Hotel, Shaniwar
Peth, Karad .. Respondent.

Mr.A.A.Kumbhakoni with Mr.A.M.Kulkarni for the

applicant.
Mrs.Neeta Karnik for the respondent.

WITH

APPEAL FROM ORDER NO.826 OF 2006

Union of India
Represented by The Chief
Engineer (Navy), Naval Base
Post, Kochi, Through
Commander Works, Engineers
(Navy) Vasco-da-Gama .. Appellant.

Vs.

M/s.Consolidated Construction
Company, Patel's Bunglow,
Near Electricity Department,
Dacorlim, Goa .. Respondent.

None for the appellant.
None for the respondent.

WITH

CIVIL REVISION APPLICATION NO.100 OF 2004

1. Shri Vishnu Arjun Sapar
age 66 years, Occ.Professional
Artist, residing at Gokul Niwas,
560/22, First Floor, Solapur
Housing Society, South Sadar
Bazar, Solapur ..

2. Shri Jagannath Arjun Sapar
Occ.Professional Artist
residing at Sakar Apartment,
Hotgi Road, Solapur ..

3. Shri Vyanktesh Vishnu Sapar
Age 35 years, Occ.Professional
Artist, Residing at C/o.Shri
Vishnu Arjun Sapar, Gokul Niwas,
560/22, First Floor, Solapur
Housing Society, South Sadar
Bazar, Solapur .. Applicants.

Vs.

Shri Bharat Arjunrao Sapar
Age 62 years, Occ.Professional
Artist, Residing at Gokul
Niwas, 560/22, Solapur Housing
Society, South Sadar Bazar,
Solapur .. Respondent.

Mr.P.M.Arjunwadkar i/b Mr.G.S.Godbole for the petitioner.
None for the respondent.

WITH

CIVIL REVISION APPLICATION NO.121 OF 2004

Western Maharashtra
Infrastructure Pvt. Ltd.
having its office at Shinde
Residency, R.S.No.286,
Plot No.1, Near Ruilkar Colony,
Plot No.194, Kolhapur 416 005 .. Applicant

Vs.

Kolhapur Municipal Corporation
having their office at Post
Box No.33, Kolhapur 416 002. .. Respondent.

Mr.N.V.Walawalkar, senior advocate with Mr.Amit B.Borkar for the appellant.
None for the respondent.

CORAM : DR.S.RADHAKRISHNAN, D.B.BHOSALE & V.K.TAHILRAMANI, JJJ.

DATED : 12TH APRIL, 2007.

JUDGEMENT (PER D.B.BHOSALE, J.)

1. In view of a divergence of the views in two judgments of learned Single Judges of this Court, the first being in **Cotton Corporation of India Ltd. Vs. Sharad Shetkari Soot Girni Niyamit 2000 (3) Mh.L.J.**

96 and the second in **Omni Bus Industrial Development Corporation of Daman, Diu, Dadra and Nagar Haveli Ltd. Vs. M.N.Dhanani (Arbitration Appeal No.1 of 2000)** decided on 17th December, 2002, a reference was made to the Hon'ble the Chief Justice by another learned Single Judge in the appeal under Arbitration Act No.3 of 2004 (New Arbitration Appeal No.14 of 2005) by the order dated 23rd March, 2004 alongwith a request to refer the matter to a larger bench. This Full Bench has been, accordingly, constituted by the Hon'ble the Chief Justice.

2. In **Omni Bus Industrial Development Corporation**, the learned Judge while dealing with the definition of "Court", under section 2(e) of the Arbitration and Conciliation Act, 1996 (for short the "Act of 1996"), has taken a view that the Court of Civil Judge, Senior Division, Goa being the Principal Court of Original Civil Jurisdiction, would be entitled to hear an appeal under section 34 of the Act of 1996, while in **Cotton Corporation of India Ltd.**, another learned Single Judge has taken a view that the District Judge of a District and not the Civil Judge, Senior Division, would be the Principal Court of Original Civil Jurisdiction. This view was taken with reference to the provisions of section 8 of the Act of 1996. It is against this backdrop we

have formulated the following question of law that is required to be addressed by us in this judgment:

. **"Whether it is the Civil Judge, Senior Division or the District Court which should be construed as being the Principal Court of Original Jurisdiction for the purpose of a petition under section 34 of the Arbitration and Conciliation Act, 1996."**

3. We do not propose to make a reference to the factual matrix in detail and deal with the merits of each case, in this group of matters. However, it would be approriate to state the background against which Arbitration Appeal No.14 of 2004 (i.e. Appeal under Arbitration Act No.3 of 2004) came to be filed in this Court. In this appeal the appellants had filed an application under section 9 of the Act of 1996 in the Court of the First Additional District Judge, North Goa at Panaji. The First Additional District Judge had granted ad-interim relief in favour of the appellants and issued notice to the respondents. The respondents upon being served with a notice filed their reply, inter alia, objecting to the jurisdiction of the Hon’ble District Judge in view of the judgment of this Court in **Omni Bus Industrial Development Corporation**. The learned Judge vide his judgment and order dated 9th March,

2004 upheld the objection and directed to return the application to the appellants for its presentation to an appropriate court having juridiction to entertain the said application. Feeling aggreived by the order of the District Court dated 9.3.2004 the appellants filed appeal before this Court in which the present reference was made by the learned Single Judge vide order dated 24.3.2004. It appears that in view of the reference made by the learned Single Judge in Appeal under Arbitration Act No.3 of 2004, in other matters also similar orders were passed by the learned Single Judges and that is how this group has been placed before us for answering the reference.

4. We have heard all the learned counsel appearing for the parties only on the aforesaid question formulated by us. Almost all the learned counsel appearing in all the matters except Mr.Deo, learned counsel appearing for some of the respondents in Arbitration Appeal No.14 of 2005, addressed the Court in support of the view taken by the learned Single Judge in **Cotton Corporation of India**. The leading arguments were advanced by Mr.N.V.Walawalkar, learned senior counsel appearing for the appellants in Civil Revision Application No.121 of 2004. We also heard Mr.Kumbhakoni, learned counsel for the appellant in Appeal from Order No.1068 of 2005 at

considerable length. Both the learned counsel took us through the judgments of the High Court in **Cotton Corporation of India Ltd. and Omni Bus Industrial Development Corporation** as also various provisions in the Act of 1996, the , Bombay Civil Courts Act, 1869, Goa, Daman and Diu Civil Courts Act, 1965, Code of Civil Procedure as also the judgments of other High Courts. The judgment of other High Courts relied upon by the learned counsel are in **M/s.I.T.I. Ltd. Allahabad Vs. District Judge, Allahabad and Others AIR 1988 Allahabad 313., Surat Singh Vs. State of Himachal Pradesh and Anr. 2004 (1) R.A.J. 382 (HP), Globsyn Technologies Ltd., Calcutta Vs. Eskaaycee Infosys, Visakhapatnam 2004 (1) R.A.J. 671 (A.P.) as also the judgment of the Supreme Court in S.B.P. & Company Vs. Patel Engineering Ltd. and Anr. 2006(1) Bom.C.R. 585**. In support of their contentions, both Mr.Walawalkar and Mr.Kumbhakoni strenuously urged, that the term "Court" under section 2(e) of the Act of 1996 will have to be construed to mean the District Court. They both rendered valuable assistance to us in deciding the issue involved in this reference. The reasons recorded by us in this judgment are based on their submissions and, therefore, we avoid to make specific reference to all the submissions advanced by them. The other learned counsel appearing in these matters

adopted the submissions advanced by Mr.Walawalkar and Mr.Kumbhakoni and in addition they also made brief submissions in support thereof. A reference to the submissions of Mr.Deo, will be made at appropriate stage in the judgment.

5. Section 34 (1) of the Act of 1996 provides a remedy to an aggrieved party to take recourse to a Court against an arbitral award. Under this provision such party can make an application for setting aside such award in accordance with sub-section (2) and sub-section (3) thereof. Sub-section (2) provides for the grounds on which the court can set aside an arbitral award, whereas sub-section (3) provides for limitation within which such application could be filed. The term "Court" used in section 34 and as defined under section 2(e), therefore, needs to be interpreted to find out whether it is the District Court, or the Civil Judge, Senior Division for the purpose of a petition under this section.

6. To address the question formulated by us and for better appreciation of contentions urged by the learned counsel for the parties it would advantageous to reproduce the provisions of section 2(e) of the Act of 1996 defining the term "Court", as also the

definition of "Court" under section 2(c) of Arbitration and Conciliation Act, 1940 (for short the "Act of 1940"). The definition of "Court" in the Act of 1996 reads thus:

> "2(e) "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any civil court to a grade inferior to such principal Civil Court, or any Court of Small Causes".

. The definition of "Court" in the Act of 1940 reads thus:

> "2(c) "Court" means a Civil Court having jurisdiction to decide the questions forming the subject-matter of the reference if the same had been the subject-matter of a suit, but does not, except for the purpose of arbitration proceedings under section 21 include a Small Cause Court."

7. The definition of "Court" under section 2(e) could be divided in the following manner: (i) The principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction; (ii) having jurisdiction to decide the questions forming the subject-matter of the Arbitration if the same had been the subject-matter of a suit; and (iii) it does not include any Civil Court of a grade inferior to such principal Civil Court, or any Court of Small

Causes. A careful glance at the definition of "Court" in the Act of 1996 and at the definition of "Court", occurring in the Act of 1940 would manifestly and very clearly demonstrate that in the Act of 1940 "Court" was defined to mean any Civil Court having Jurisdiction to decide the questions forming the subject-matter of the reference as if the same had been the subject-matter of a suit. While under the Act of 1996, the meaning of the term "Court", was, however, narrowed down and confined to be "the principal Civil Court of the original jurisdiction in a District" and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the subject matter of the arbitration if the same had been the subject matter of a suit, but does not include any civil court of a grade inferior to such Principal Civil Court or any Small Causes Court. The term "Court" has been used in sections 9, 14(2), 34, 36, 37, 39, 42 and 43 of part one of the Act of 1996.

8. The Act of 1996 is essentially based on United Nations Commissions on International Trade Law (for short "UNCITRAL") and various International Commercial Arbitration concepts. UNCITRAL Model Laws on International Commercial Arbitration was adopted in 1985 with a view to bring uniformity of the law of

arbitral procedures and the specific needs of International Commercial Arbitration practise. The Law of Arbitration in India was earlier substantially contained in three enactments, namely, the Act of 1940, Arbitration (Protocol and Convention) Act, 1973 and the Foreign Awards (Recognition and Enforcement) Act, 1961. It was widely felt that the Act of 1940, which contains the General Law of Arbitration, has become outdated and it is against this backdrop and in view of UNCITRAL Model Laws, the Act of 1996 was introduced. This Act repeals the Act of 1940. One of the objectives of enactment of the Act of 1996 was to minimise supervisory role of the courts in an arbitral process. This object will have to be borne in mind while interpreting the term "Court" under section 2(e) of the Act of 1996. A reference to the statement of objects and reasons in the process of interpretation of a Statute is held permissible by a catena of decisions of the Supreme Court. Even the preamble of a Statute is equally an important part and can be pressed into service to aid the construction thereof.

9. It is against this backdrop, we now proceed to consider the definition of "Court" in the Act of 1996. The intendment of the Parliament is clearly reflected in the language employed in defining the

term "Court" under section 2(e) of the Act of 1996. The Parliament intended to have only one Court as the forum for arbitral proceedings, that is, the "principal court of original jurisdiction" in a district. In this group of matters we are not concerned with inclusive definition as occurring in section 2(e) of the Act of 1996 relating to the jurisdiction of the High Court also being the court of ordinary original civil jurisdiction. The principal court of original jurisdiction in a district does not include any civil court to a grade inferior to such principal civil court or any court of Small Causes. In other words, it categorically excludes civil courts of "a grade inferior to such principal civil court". The Parliament has, clearly, narrowed down the definition of the term "Court". The only condition contemplated in the definition of "Court" is that it should have jurisdiction to decide the questions forming the subject matter of the arbitration if the same had been the subject matter of a suit. In our opinion, the definition of "Court" in the Act of 1996, does not contemplate that such court should have jurisdiction over the subject matter of the dispute. What it means is the jurisdiction to decide "the question forming the subject matter of the arbitration" if the same had been the subject-matter of a suit. The pecuniary

jurisdiction of a court, therefore, has no significance for the purposes of the Act of 1996. The Court, however, must have a territorial jurisdiction. The expression "subject matter of the arbitration", therefore, cannot be read to mean a court where the suit can be filed in respect of that cause of action and would, therefore, cover all the provisions from sections 16 to 20 of the Code of Civil Procedure. In other words, the pecuniary jurisdiction is no longer a material for deciding the jurisdiction of a court being the principal court of original jurisdiction for the purpose of a petition under section 34 of the Arbitration and Conciliation Act.

10. That takes us to consider what the expression "the principal civil court of original jurisdiction in a district" exactly means, whether it is the Civil Judge, Senior Division or the District Court. By using the words "means" and "includes" and the expression "does not include" as occurring in the definition of "Court" it makes the intendment of the Parliament clear. By using these words the Parliament has made the meaning of the term "Court" explicitly clear. The Supreme Court in **(P) Kasilingam and Others Vs. P.S.G. College of Technology and Others AIR 1995 Supreme Court 1395**

while dealing with the similar definition and word ‘means’ occurring therein observed that "the use of word ‘means’ indicates that definition is a hard and fast definition and no other meaning can be assigned to the expression that is put down in the definition". Similarly the Supreme Court in **Mahalaxmi Oil Mills Vs. State of Andhra Pradesh AIR 1989 Supreme Court 335**, while interpreting the definition of "Tobacco", wherein all the aforesaid three words/expressions, as occurring in the definition of "Court" are there, has stated the word "means" is a term of restriction, while the word "includes" is a term of enlargement. When both these words are used together to define a thing, the intendment of the Parliament is to supply restricted meaning to the terms. The expression "does not include any civil courts of a grade inferior to such principal civil court or any court of small causes" occurring in section 2(e), further restricts the meaning of the term "Court" defined therein. It clearly excludes the courts inferior to the principal court of original jurisdiction. The Allahabad High Court in **M/s.I.T.I. Ltd.** (supra) had an occasion to deal with the very same section and while so doing has taken a similar view.

11. We would also like to consider two more

expression/words in the definition of "Court", that is, "grade inferior" and "principal". According to Black's Law Dictionary "inferior" means "one who, in relation to another, has less power and is below him; one who is bound to obey another". The word "grade" used in section 2(e) is suggestive of status and importance and it does not refer to a class or particular class. Keeping a literal meaning of the words "inferior" and "grade" in view, if the expression "but does not include any civil court of a grade inferior to such principal court" is read, in our opinion, it means no court subordinate/inferior to the principal civil court of ordinary original civil jurisdiction in a district, would be covered within the meaning of "Court" as defined under section 2(e) of the Act of 1996. Similarly, insofar as the word "principal" is concerned, according to Black's Law Dictionary, it means chief; leading; most important or considerable; primary; original, Highest in rank, authority, character, importance or degree. In Law Lexicon the word "principal" is described to mean highest in rank, authority, character, importance, or degree; most considerable or important; chief; main (as) the principal officers of a government, the principal men of a State; the principal productions of a country, principal arguments in a case. The word "principal",

thus, clearly indicate only one court being the highest in rank or chief.

12. In our opinion, a plain and literal reading of all the aforesaid words/expressions/terms employed in section 2(e) clearly demonstrate the exact meaning of the term "court". It means the district court is the principal civil court of original jurisdiction in a district and not a civil court of a grade inferior to such principal civil court. The court of Civil Judge, Senior Division may also be a civil court of original jurisdiction, but in any case it could not be termed as the principal civil court of original jurisdiction in a district.

13. The Parliament, in the Act of 1996, has intendedly used the term "Court" and not the "District Court" as we usually find in various other enactments. From a plain and literal reading of the definition of "Court" it is apparent that the definition is inclusive. It specifically includes the High Court in exercise of its ordinary original civil jurisdiction. Under section 3(17) of the General Clauses Act, 1897 and section 3(15) of the Bombay General Clauses Act, 1904 the term "District Judge" means the Judge of a principal civil court of original jurisdiction. The High Court in exercise of

its ordinary original jurisdiction is not included in these definitions. To get out of these definitions and with a view to include the High Court, the Parliament in the Act of 1996 has not used the term "District Court" and has used only "Court" to mean and include the High Court in exercise of its ordinary original jurisdiction.

14. Thus, from the language of the definition of "Court" under section 2(e) of the Act of 1996 the Parliament apparently intended to confer the power on the highest judicial authority in a district. It must certainly be taken to have been conscious of the object to be achieved while framing the definition of the term "Court". Besides, it intended to minimise supervisory role of the courts in arbitral process, it also intended to add the greatest credibility to this process. We find support for the view in the judgments of the Supreme Court. The Supreme Court while dealing with the provisions of section 11 of the Act of 1996, in **S.B.P. & Company** (supra) in paragraph 12 of the judgment has observed that "the court is defined in the Act to be the principal Civil Court of original civil jurisdiction of the district and includes the High Court in exercise of its ordinary original civil jurisdiction. The principal Civil Court of original civil jurisdiction is

normally the District Court. The High Courts in India exercising ordinary original civil jurisdiction are not too many. So in most of the States the concerned court would be the District Court". Similarly, the Supreme Court in **Garhwal Mandal Vs. M/s.Krishna Travel Agency in Special Leave Petition (Civil) Nos.18344 of 2004 decided on 24.1.2007,** while dealing with the question whether it could entertain all objections to the award and holding that even if the appointment of the Arbitrator is made by High Court or the Supreme Court, the principal civil court of original jurisdiction remains the same as contemplated under section 2(e) of the Act of 1996, has observed that the principal civil court of original jurisdiction remains the "District Court" even if the appointment of the Arbitrator is made by the High Court. It is thus clear that the Legislature clearly circumscribed and specifically narrowed down the definition of "Court" to mean only the Court of principal civil original jurisdiction in a district and it is only the court of "District Judge" in a district which is such a "Court" of principal civil jurisdiction.

15. We further find support for the view from the language of the provisions contained in section 8 of the Act of 1996. This provision confers power to

refer the parties to arbitration where there is an arbitration agreement. Such power, under this provisions, can be exercised by a judicial authority. The Parliament in this section has not used the term "Court". The expression "Judicial Authority" is a term of wider import and does not restrict itself to the principal civil court of original jurisdiction in a district. It has intendedly used different terms, namely, "Court" and "Judicial Authority" as we find in different sections such as section 8 and 34 of the Act of 1996. The Parliament intended to confer powers on all the judicial authorities to refer the parties to arbitration where there is an arbitration agreement and not only on the principal civil court of original jurisdiction. The judicial authority, as has been rightly observed by the learned Single Judge in **Cotton Corporation of India** (supra) means "all authorities which can be described as judicial authorities, in the sense that they administer justice." And in that context it was held that Civil Judge, Senior Division can be described as "judicial authority" for the purpose of Arbitration Act. In this judgment the learned Single Judge has, however, clearly observed that the Court, as defined under section 2(e) for the purpose of the Act of 1996 means the principal civil court of original jurisdiction in a district and according to the provisions of the

Bombay Civil Courts Act, the District Court in each district is the principal civil court of original jurisdiction and not the Civil Judge, Senior Division. We are in agreement with the conclusion drawn by the learned Single Judge. However, we would like to take survey of the provisions contained in the Bombay Civil Courts Act, 1869.

16. Section 5 of the Bombay Civil Courts Act defines "District Judges" to mean that there shall be in each district a District Court presided over by a Judge to be called the District Judge. Section 7 says that the District Court shall be the principal court of original civil jurisdiction in the district, within the meaning of the Code of Civil Procedure. Section 9 confers the powers on the District Judge of general control over all civil courts and their establishment within the District and its inspection. Section 16 deals with original jurisdiction of "Additional District Judge". Under this provision the District Judge has a power to refer to any Additional District Judge subordinate to him any original suits and proceedings of a civil nature, applications or reference under the special Acts and miscellaneous applications. The Additional District Judge shall have jurisdiction to try such suits and to dispose of such applications or references. It

further provides that where the Additional District Judge decrees and orders in such cases are appealable, the appeal shall lie to the District Judge or to the High Court according to amount or value of the subject matter. Section 16, thus, says that the District Judge can refer any original suit and proceedings of civil nature to any Additional District Judge, who shall have jurisdiction to try such suit. Section 21 provides for number of subordinate civil courts. It says that there shall be in each district so many Civil Courts subordinate to the District Court as the State Government shall from time to time direct, Provided that for special reasons it shall be lawful for the State Government at any time to close temporarily any such Subordinate Court. Section 24 provides for Classes of the Civil Judges. It says the Civil Judge shall be of two classes. The jurisdiction of a Civil Judge, Senior Division extends to all the original suits and proceedings of a civil nature. The other class is of Civil Judge, Junior Division to which we are not concerned in the present case. It is thus clear that the Civil Judge, Senior Division is inferior in grade to the District Court and is subject to its administration control. Even the provisions of Goa, Daman and Diu Civil Courts Act, 1965 are similar and they do not make any material distinction so as to

have any effect on the view taken by us in these matters. From bare perusal of all the relevant provisions in these two statutes, we have no hesitation to hold that the District Judge in a district alone is the principal court of original civil jurisdiction and does not include any other Judge subordinate to him.

17. We would also now like to consider the provisions of section 37 and more particularly sub-section (3) thereof which provides that no second appeal shall lie from the order passed in the appeal under this section, but nothing in this section shall affect or take away any right to appeal in the Supreme Court. Mr.Deo, learned counsel submitted that the question of filing second appeal would arise only if a Civil Judge, Senior Division is held to be the principal civil court of original civil jurisdiction in a district and not otherwise. In other words, he submitted that it is only against the order of the Civil Judge, Senior Division, the appeal contemplated under section 37 would be maintainable before the District Court and against that order the second appeal under section 100 of the Code of Civil Procedure would lie to the High Court and that is the reason why the Legislature has specifically curtailed the remedy of second appeal. We are unable to agree

with this submission made by Mr.Deo for more than one reason. It is true that section 37(3) expressly prohibits a "second appeal" from an order passed in appeal under section 37(1) and 37(2) except an appeal to the Supreme Court. However, there is clear indication inherent in sub-section (3) that the expression "second appeal" does not mean an appeal under section 100 of the Code of Civil Procedure. The Supreme Court had an occasion to deal with section 39(2) of the Act of 1940 in **Union of India Vs. Mohinder Supply Company AIR 1962 Supreme Court 256.** The provisions contained in section 39(2) in the Act of 1940 are pari-materia with section 37(3) of the Act of 1996. The Supreme Court in this judgment has held that the expression "second appeal" used in section 39(2) of the Act of 1940 means a further appeal from an order passed in appeal under section 39(1) and not an appeal under section 100 of the Code of Civil Procedure. The Supreme Court has further proceeded to observe that if the expression ‘second appeal’ includes an appeal under the Letters Patent, it would be impossible to hold that notwithstanding the express prohibition, an appeal under the Letters Patent from an order passed in appeal under sub-section(1), of section 39 of the Act of 1940, is competent. It is thus clear that no Letters Patent appeal would lie from an order in an

appeal filed under section 37 of the Act of 1996. The second appeal contemplated under sub-section (3) of section 37 of the Act of 1996 means an appeal under the Letters Patent and since there is expressed prohibition to file such appeal no letters patent would lie. Merely because the expression "second appeal" is used in this section does not mean an appeal under section 100 of the Code of Civil Procedure. This provision is consistent with the statement of objects and reasons which clearly states that enactment of the Act of 1996 is to minimise supervisory role of the courts in an arbitral process. The submission of Mr.Deo, therefore, must be rejected. His further submissions that the later part of the definition of "Court" under section 2(e) would be material and controlling factor for the definition, which is to the effect that having jurisdiction to decide the questions forming the subject matter of the arbitration, if the same had been subject matter of a suit also deserves to be rejected in view of the discussion in the foregoing paragraphs of the judgment.

18. We, accordingly, answer the question formulated by us in paragraph 2 of the judgment as follows: The principal civil court of original jurisdiction in a district for the purpose of a

petition under section 34 of the Act of 1996 is a District Court and does not include any other court inferior to the District Court.

19. We direct to place all the matters before the appropriate learned Single Judges for their disposal in the light of this judgment disposing of the references.

(DR.S.RADHAKRISHNAN, J.)

(D.B.BHOSALE, J.)

(SMT.V.K.TAHILRAMANI, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

ARBITRATION APPEAL NOS.14 OF 2005 & 13/2005, WITH APPEAL FROM ORDER NOS.1068 OF 2005 & 826/2006, WITH CIVIL REVISION APPLICATION NOS.100 OF 2004 & 121/2004.

Date of Judgment:
12th APRIL,2007.

For approval and signature

THE HON'BLE DR.JUSTICE S.RADHAKRISHNAN.

THE HON'BLE MR.JUSTICE D.B.BHOSALE.

THE HON'BLE SMT.JUSTICE V.K.TAHILRAMANI.

1. Whether Reporters of Local Papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the Judgment?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any Order made thereunder?

5. Whether it is to be circulated to the Civil Judges?

6. Whether the case involves an important question of law and whether a copy of the judgment should be sent to Nagpur Aurangabad or Goa offices?